

## SUBCOMMITTEE NO. 4

## Agenda

Joseph Dunn, Chair  
Christine Kehoe  
Tom McClintock



# OUTCOMES AGENDA PART A

Wednesday, May 18, 2005  
1:30 pm  
Room 2040

<u>Item</u>	<u>Department</u>	<u>Page</u>
0250	Judicial Branch .....	1
0820	Department of Justice .....	10
8940	Military Department .....	12

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**Departments Budget Proposed for Discussion****0250 Judicial Branch****Judicial Branch Consent / Vote-Only Items****1. Finance Letter. Reversion of Funds for Two Joint Courthouse Projects.**

*Finance Letter Request.* This Finance Letter proposes language to revert \$619,000 to the State Court Facilities Construction Fund. The Budget Act of 2004 included this amount for acquisition and preliminary plans for two projects: one trial court to serve Sierra and Plumas counties, and another to serve Placer and Nevada counties. The Administrative Office of the Courts conducted a study on each of these projects and has determined that these projects are not cost beneficial. More cost-appropriate alternatives are being explored, and until other options are developed, these funds are proposed to be reverted.

**2. Finance Letter. Contra Costa County, New Antioch Area Courthouse Project.**

*Finance Letter Request.* This Finance Letter requests an augmentation of \$7,237,000 from the State Court Facilities Construction Fund for acquisition and preliminary plans for the Contra Costa County, New Antioch Area Courthouse project. This project will provide a four-room courthouse to meet courthouse needs in the Antioch area. The request also adds provisional language as follows:

X. Notwithstanding any other provision of law, the Pittsburg-Delta court facility shall transfer to the state prior to the release of funds identified in Schedule (1) of this item.

**3. Finance Letter. Budget Bill Language Regarding the State Court Facilities Construction Fund.**

*Finance Letter Request.* This Finance Letter requests that Budget Bill language be added to authorize the Director of Finance to augment funding from the State Court Facilities Construction Fund after Legislative review, should sufficient funds be available. This change is requested in order to accommodate any additional need for resources that may arise as a result of the transfer of local court facilities to the state and other specified court facility activities.

**4. Finance Letter. Increased Expenditure Authority from the Trial Court Trust Fund.**

*Finance Letter Request.* This Finance Letter requests increased expenditure authority from the Trial Court Trust Fund of \$15,418,000 to maintain the existing level of allocations to local trial courts from the Trial Court Trust Fund. This restores an adjustment included in the 2004-05 budget that reduced Trial Court Trust Fund expenditure authority due to a projected shortfall in revenues.

**5. Finance Letter. Court of Appeal, Fifth Appellate District Fresno.**

*Finance Letter Request.* This Finance Letter proposes an augmentation of \$4,486,000 in lease revenue funds to fully fund the construction phase of the Court of Appeal, Fifth Appellate District Fresno: New Courthouse project. The Judicial Council indicates that an increase to the construction appropriation is necessary because of project delays, Heating, Ventilation, Air-conditioning (HVAC) system and audio/visual system alterations, and the increased costs of materials and labor. The proposal also includes language to add the design phase in lease revenue financing.

**6. Finance Letter. Reappropriation Fresno County Appellate Courthouse.**

*Finance Letter Request.* This Finance Letter requests reappropriation language for the Court of Appeal, Fifth Appellate District Fresno: New Courthouse—Construction. The Judicial Council indicates that reappropriation of funds is necessary to allow for additional construction funding to complete the project. This reappropriation is related to issue #5 above.

**7. May Revise. Debt Service Adjustment.**

*May Revise Request* This Finance Letter proposes an increase of \$55,000 General Fund and a decrease of \$53,000 Reimbursements associated with Lease Revenue Bond debt service adjustments that were reflected in a set-aside Item in the January 10 Budget, related to Control Section 4.30.

**8. May Revise. Lease Rental Debt Payments.**

*May Revise Request.* This Finance Letter proposes a decrease of \$10,000 General Fund and an increase of \$10,000 Reimbursements that will offset lease rental debt payments accordingly, as it is a shift due to an updated debt service payment schedule, for a lease revenue funded project.

**9. May Revise. Merced Downtown Courthouse Project.**

*May Revise Request.* This Finance Letter requests that the appropriation from the State Courthouse Facilities Construction Fund be increased by \$3,040,000 to reflect the addition of construction funds to support the Merced County, New Merced Downtown Courthouse project. The construction funds will be transferred to the county to complete construction of a seven courtroom courthouse. The county of Merced is providing the remaining funds necessary to construct the project (\$16.7 million). Provisional language is also requested stating that should the county of Merced not transfer responsibility and/or title of the court facilities in downtown Merced to the state by January 1, 2007, the county shall reimburse the state for the funds relating to this project.

**10. May Revise. Fresno Area Juvenile Delinquency Court Facility Project.**

*May Revise Request.* This Finance Letter requests budget bill language to allow the Judicial Branch to enter into a lease-purchase agreement with the County of Fresno for a New Fresno Area Juvenile Delinquency Court Facility project, subject to Department of Finance approval. The provisional language will request the county transfer responsibility and/or title of the existing Fresno Juvenile Court Facility prior to the approval of the lease-purchase agreement. The project creates a six courtroom facility in a juvenile delinquency campus that consolidates all county juvenile delinquency services. A joint-use building will be constructed by the county that includes courtrooms and necessary courtroom support space, as well as county offices. The lease payments to the county will be equal to the court's proportional share of the project costs, which is estimated at 58.22 percent.

*Staff Recommendation.* No issues have been raised concerning the items on the Judicial Branch Consent / Vote-Only List. Staff recommends approval of the vote-only issues.

Action.

***Approved Issue #1 on the Vote-Only list – Vote 3-0***

***Approved Issues #2-#10 on the Vote-Only list – Vote 2-1 (McClintock, no)***

## Judicial Branch Budget Items Proposed for Discussion

### 1. Cost of Forensic Evaluations.

This request proposes an increase of \$5.5 million through an increase in the county obligations associated with the Maintenance of Effort (MOE) payments. The augmentation would address unanticipated cost increases to the trial courts for various forensic evaluations, as specified in a recent California State Attorney General's (AG) opinion regarding whether the counties or the state are responsible for these costs.

The AG's opinion concluded that the costs for five out of seven categories of forensic evaluations are court costs. The Administrative Office of the Courts (AOC) indicates that many counties have continued to pay for the costs of these forensic evaluations, in whole or part. The AG's opinion clarifies the issue of who pays, which has resulted in unfunded cost increases for the trial courts.

*Proposed Trailer Bill Language.* The proposal includes trailer bill language (included in the appendix) requiring the AOC and CSAC to establish a working group to review information to determine the level of cost changes incurred by the counties and the courts related to fiscal examinations. Based on the review, the working group is required to identify adjustments to be made to county MOEs and report on the adjustments to the State Controller by September 30, 2005.

*Staff Comments.* The AOC notes that individual county MOE payments may shift either up or down depending on the particular funding arrangement in each county. However, the net result will be a \$5.5 million increase for MOE payments statewide. CSAC has indicated that it is opposed to this proposal.

*Previous Subcommittee Action.* At the March 30, hearing the Subcommittee held this issue open. At the hearing, the AOC and CSAC indicated that they were working on potential resolutions to this issue.

*Staff Recommendation.* Staff recommends adoption of this proposal in order to send the issue to conference. Staff notes that this proposal has been denied in the Assembly, so that an action to approve the proposal would send the issue to conference, allowing the Judicial Council and the counties additional time to reach an alternate resolution.

Action.

***No Action Taken – approved as budgeted.***

## **2. Undesignated Fees.**

*Budget Request.* The budget proposes trailer bill language (included in the appendix) to permanently reauthorize the transfer of \$31 million from counties to courts in revenue from undesignated fees.

Two years ago, the Legislature enacted statutory changes to distribute these undesignated fees, with direction that the AOC and the CSAC jointly propose a long-term revenue allocation schedule to take effect on July 1, 2005. The proposed trailer bill language would continue the current distribution of the undesignated fees and would no longer require a long-term revenue allocation schedule. The language would also put into place penalties for delayed payments from the counties.

*Background.* Chapter 850, Statutes of 1997, shifted primary fiscal responsibility for support of the trial courts from the counties to the state. Chapter 850 and other recent trial court funding legislation made changes in the distribution and amount of court-related fees. An important part of the financing mechanism for the state's new fiscal responsibility for the trial courts was the requirement that local governments transfer a variety of court-related fees collected by trial courts and local governments to the state's trust fund. However, Chapter 850 did not designate which entity—the state or local governments—would retain a number of court-related fees. Some of these undesignated court fees include fees paid for trial postponement, change of venue, filing for Writ of Execution, and civil assessment fees.

*Staff Comments.* CSAC has indicated that it is opposed to this proposal.

*Previous Subcommittee Action.* At the March 30, hearing the Subcommittee held this issue open. At the hearing, the AOC and CSAC indicated that they were working on potential resolutions to this issue.

*Staff Recommendation.* Staff recommends adoption of this proposal in order to send the issue to conference. Staff notes that this proposal has been denied in the Assembly, so that an action to approve the proposal would send the issue to conference, allowing the Judicial Council and the counties additional time to reach an alternate resolution.

Action

*No Action Taken – approved as budgeted.*

**3. Uniform Civil Fees.**

In order to address the complexity and lack of uniformity in the existing civil fee structure, the Judicial Council, in late 2003, formed a working group of diverse stakeholders to undertake a comprehensive review of the existing civil fees and to make recommendations for developing a uniform civil fee structure. Based on the findings and recommendations of the working group, the court is developing legislation to streamline the existing civil fee structure and achieve uniformity in the level of fees charged by courts and counties statewide. Generally, this proposal would involve collapsing a number of existing fees into a single fee, as well as raising certain fees.

The court security fee which was imposed two years ago and will expire in July 1, 2005, which would create a \$16.8 million shortfall in the Trial Court Trust Fund. Revenues from the new fee would be deposited into the Trial Court Trust Fund.

Proposed statutory language would increase the filing fee to \$180 from limited jurisdiction civil cases under \$10,000, to \$300 for limited jurisdiction cases between \$10,000 - \$25,000, and \$320 for unlimited jurisdiction cases. It is estimated that the uniform filing fee would provide sufficient revenue to offset the \$16.8 million that will be reduced with the sunset of the court security. In addition, the AOC estimates that the fee will generate an additional \$28.2 million in new revenues. These new revenues would be allocated as follows: to the Equal Access Fund (\$3.8 million), for technology projects (\$10.8 million), for facilities (9.9 million), and as a set aside for county law libraries fee increases (\$3.7 million).

*Staff Recommendation.* Staff recommends adoption of placeholder trailer bill language to create the uniform civil fees. This action would send the issue to the conference committee.

Action.

***Approved trailer bill language for the uniform civil fees. Vote: 2-1 (McClintock, no)***

#### **4. May Revise. State Appropriations Limit.**

*May Revise Request.* This Finance Letter requests that the funding for the trial courts be increased by \$24,360,000, to provide funding for the statutorily required adjustment for trial court funding equal to the percentage change in the State Appropriations Limit (SAL). This augmentation would fund the difference between that earlier estimate and the current SAL estimate of 6.0 percent for 2005-06.

*Updated Information.* The DOF has reported that the final SAL May Revise calculation was 6.64 percent. DOF is asking that the subcommittees adopt and augment the SAL Adjustment by a total of \$37,362,000. This amount includes the additional adjustment of \$13,002,000 on top of the requested \$24,360,000 as part of the May Revision letter. The \$13 million raises the SAL adjustment from the previous 6 percent to the final of number of 6.64 percent. The total funding for the SAL would be \$134.8 million. The Governor's Budget previously included funding for a 4.8 percent increase, or \$97.4 million.

*Background.* The amount was computed by multiplying specific trial court operational costs, including all expenses for court operations, court employee salaries and salary-driven benefits, by an estimated growth factor of 6.0 percent. The calculation does not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

The AOC indicates that the Judicial Council is working on a SAL allocation methodology. The SAL funding would be allocated according to the following priorities:

- Statewide programs – such as the court interpreter program and the court appointed counsel program
- Mandatory costs – such as increased retirement costs
- Judicial Council Priorities
- Inflation
- Population Growth
- Productivity

*Staff Recommendation.* Staff recommends approval of the revised SAL amount.

Action.

*Approved augmentation of \$37.4 million to fund the final May Revise SAL calculation for the trial courts. Vote: 2-1 (McClintock, no).*



## **5. Expansion of SAL to the Judiciary Budget.**

The Governor's Budget Summary mentions a proposal that would add a growth factor based on the State Appropriations Limit (SAL) for the state judiciary items starting in fiscal year 2007-08. This growth factor would be similar to the SAL growth factor for the trial courts.

The following budget bill language would require Judicial Council to draft trailer bill language next year to expand the application of the SAL to include funding for judicial compensation, and funding for the Supreme Court, Courts of Appeal, the Administrative Office of the Courts, and the Habeas Corpus Resource Center.

In order to ensure that funding for judicial branch services, operations, and programs is not eroded, staff are directed to develop trailer bill language that would, effective fiscal year 2006-2007, expand the application of the annual State Appropriations Limit adjustment to include funding for judicial compensation and funding for the Supreme Court, Courts of Appeal, the Judicial Council/Administrative Office of the Courts, and the Habeas Corpus Resource Center. This adjustment will result in an adjustment based upon the annual change in the State Appropriations Limit and would apply to funding for judicial branch operations, programs, administrative services, local assistance grants, and the operation, maintenance, and repair of judicial branch facilities, not to include the cost of programs that are reimbursed through other sources.

Action.

***Approved budget bill language to require the Judicial Council to draft trailer bill language next year to expand the application of the SAL to include funding for judicial compensation, and funding for the Supreme Court, Courts of Appeal, the Administrative Office of the Courts, and the Habeas Corpus Resource Center. Vote: 2-1 (McClintock, no)***

## **6. Judges Retirement Study**

The following supplemental report language has been provided to the Subcommittee, directing the Judicial Council to assess the effectiveness of the Judges' Retirement System II.

The Judicial Council shall assess the effectiveness of the Judges' Retirement System II based on the ten years of experience under the new system. The Judicial Council shall submit a report to the Legislature no later than January 3, 2006. The report shall include, but is not limited to, the impact of trial court unification on the judges' retirement systems and the resulting increase in the judges' age at the start of their judicial service.

*Staff Recommendation.* Staff recommends approval of the supplemental report language.

Action.

***Approved supplemental report language. Vote 2-1 (McClintock, no)***

**7. Finance Letter. Reappropriation Orange County Appellate Courthouse.**

*Finance Letter Request.* This Finance Letter requests reappropriation language for the Court of Appeal, Fourth Appellate District, Orange County: New Courthouse—Acquisition. The proposed language provides that the funds shall be available for expenditure until June 30, 2006. The Finance Letter request indicates that reappropriation of funds is necessary because a site is still being determined for this project.

*Staff Comments.* The AOC has indicated that it is moving forward with acquisition for this project. The AOC has indicated that to the extent there are any excess funds from the acquisition phase, the excess funds will revert to the General Fund once the acquisition is approved by the State Public Works Board.

*Staff Recommendation.* Staff recommends approval of the reappropriation language.

Action

***Approved reappropriation for Orange County Appellate Courthouse with language specifying that reappropriation is for acquisition only.***

## 0820 Department of Justice

### ***Consent / Vote-Only Issues***

#### **1. Finance Letter. Santa Rosa Laboratory**

*Finance Letter Request.* This Finance Letter proposes an increase of \$1,199,000 from lease revenue funds for the Santa Rosa Replacement Laboratory—Construction. This request would increase the construction phase of the project from \$8.6 million to \$9.8 million. The Finance Letter indicates that the revised cost estimates are based on bid results from another laboratory currently under construction.

#### **2. May Revise. Lease Revenue Adjustment**

*May Revise Request.* This proposal requests a decrease of \$29,000 associated with Lease Revenue Bond debt service adjustments that were reflected in a set-aside Item in the January 10 Budget, related to Control Section 4.30.

#### **3. May Revise. Updated Debt Service Payments.**

*May Revise Request.* This proposal requests a decrease of \$15,000 to reflect a reduction in base rental fees due to an updated debt service payment schedule for a lease revenue funded project.

#### **4. May Revise. Proposition 69 Workload.**

*May Revise Request.* This May Revise Finance Letter requests a General Fund increase of \$1,972,000, and an increase of \$4.7 million from DNA Identification Fund revenue for workload associated with the voter approved, DNA Fingerprint, Unsolved Crime and Innocence Protection Act. This augmentation is in addition to the amount included in the Governor's Budget – a total of \$11.2 million (\$7 million from a General Fund loan). The Department of Justice (DOJ) indicates that this augmentation is necessary as a result of an increase in revised revenue estimates for the DNA Identification Fund and projected DNA samples to be processed. Previously, the estimated number of samples to be processed was 135,000 in the budget year. This request indicates that the estimated number of samples to be processed in the budget year has increased by 110,000.

*Staff Recommendation.* No issues have been raised on these issues. Staff recommends approval of the Vote-Only items.

Action

***Approved Finance Letters for issues #1 and #2. Vote: 2-1 (McClintock, no)***

***Approved Finance Letters for issues #3 and #4. Vote 3-0***

**DOJ DISCUSSION ISSUE****Custody of Minors/Child Abduction and Recovery Mandate (Ch. 1399, Stats. 1976).**

The budget proposes to suspend the Custody of Minors/Child Abduction and Recovery mandate. This mandate has been deferred in 2002-03, 2003-04, and 2004-05. The DOF reports that the cost of this mandate is approximately \$13.6 million annually, based on claims received by the State Controllers Office (SCO) in 2003-04. Due to the passage of Proposition 1A, mandates can no longer be deferred.

According to the claiming instructions published by the SCO, this mandate requires local law enforcement agencies to actively assist in the resolution of child custody problems and the enforcement of custody decrees. Reimbursable activities are obtaining compliance with court orders and costs for out-of-jurisdiction cases (foster care and transportation costs). No costs for criminal prosecution are covered under this mandate.

*DOF Rationale for Suspending the Custody of Minors Mandate.* The DOF indicates that the activities reimbursed under this mandate, while important, are local responsibilities and should be prioritized within the resources of the local law enforcement and foster care systems.

*Previous Action.* At the hearing on March 30, the Subcommittee approved the mandate suspension.

*Staff Comments.* A number of local district attorney offices oppose the suspension of this mandate, citing the importance of this issue. Abductions are most often carried out by people who know the child. The funds from the mandate help pay for specifically trained investigators who are dedicated to protecting the custody rights of parents and legal guardians. The Subcommittee may wish to reconsider this issue.

Action.

***Re-opened the issue and restored the mandate and approved funding of \$13.6 million for the mandate. Vote: 2-1 (McClintock, no).***

## 8940      **Military Department**

### **Military Department Issues for Consent / Vote-Only**

#### **1. Finance Letter. Roseville Armory Addition and Renovation.**

*Finance Letter Request.* This Finance Letter proposes an increase of \$627,000 in federal funds to budget additional federal fund expenditure authority provided for the Roseville: Armory Additions and Renovations—Construction. The requested increase results from the unanticipated rise in construction costs. The total proposed costs for this project are \$6.6 million, of which \$3.5 million is General Fund and \$3.1 million is federal funds.

#### **2. Finance Letter. State Active Duty Pay Increase.**

*Finance Letter Request.* This Finance Letter proposes an augmentation of \$432,000 from the General Fund and \$659,000 from federal funds to pay for the full year impact of a Congressionally-mandated State Active Duty pay increase effective January 1, 2005.

*Staff Recommendation.* No issues have been raised on the Vote-Only issues. Staff recommends approval of the items on the vote-only list.

Action.

*Approved the Finance Letters. Vote: 2-1 (McClintock, no).*

## **Military Department Issues for Discussion**

### **1. Funding for the Oakland Military Institute.**

The budget requests an additional \$1.3 million in General Fund support for the Oakland Military Institute (OMI). The request would reestablish 12 positions that were eliminated in the 2003-04 and 2004-05 budgets.

In 2002-03, OMI had a General Fund budget of \$2.4 million. Budget reductions in 2003-04 and 2004-05 reduced OMI's budget—resulting in a General Fund appropriation of \$1.3 million in 2004-05. Due to these budget reductions, the Military Department reduced its OMI-assigned staff by 12 positions to its current level of 10 positions. Even with these budget reductions, OMI increased its enrollment this year by 100 additional students. In the budget year, OMI plans to include an 11<sup>th</sup> grade for the first time.

*Analyst's Recommendation.* The OMI continues to conduct its programs with reduced Military Department personnel. The LAO indicates that if OMI chooses to expand in the budget year, it should do so with resources other than the General Fund. The LAO notes that a denial of additional General Fund dollars for OMI does not preclude Oakland Unified School District (OUSD) or the City of Oakland from using existing charter school funds or other sources (including local funds and private donations) to expand the school. Consequently, the LAO recommends that the Legislature reject the proposed augmentation.

*Staff Comments.* The Military Department indicates that the estimated Proposition 98 funding for OMI in the budget year is \$6,311 per ADA, similar to funding for other charter schools. This level of funding does not include any funding for special education services which are provided directly through the Oakland Unified School District. Staff notes that fully funding the Military Department's proposal in the budget year would provide an additional \$5,200 per ADA for OMI on top of Proposition 98 funding – for a total of \$11,511 per ADA. The Military Department indicates that the General Fund, provided in its budget, provides for assistant teachers in the classrooms to teach military customs and military history, and for extra-curricular activities such as physical education, drill and ceremonies, leadership, and team development.

*Staff Recommendation.* Staff recommends adoption of the LAO recommendation and rejection of the \$1.3 million augmentation. Without these funds, the OMI will still receive its normal allocation of Proposition 98 funds (approximately \$6,300 per ADA) and an additional \$2,500 per ADA in General Fund.

Action

***Approved as budgeted. Vote: 2-1 (McClintock, no)***

**2. Santa Ana Armory.**

The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.

The armory is on a 3.5-acre site between an elementary school and a park. Both the elementary school and the park were developed after the armory was built.

If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding for construction of a new armory would be split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.

*Staff Recommendation.* Staff recommends adoption of supplemental report language that directs the Military Department to provide a detailed report on the Santa Ana Armory relocation efforts.

By January 1, 2006, the Military Department shall report to the Joint Legislative Budget Committee and the chairs of the legislative budget committees with a detailed report on relocation efforts for the Santa Ana Armory, including an analysis of the options for new locations given the programmatic needs for the armory, the criteria being used to determine a suitable location, a list of potential sites that are being explored, the status of any ongoing discussions, and a list of sites that have been rejected and the reason why those sites were rejected.

Action.

***Approved Supplemental Report Language. Vote:2-1 (McClintock , no)***

**3. Finance Letter. Use of the Armory Fund for Armory Repairs.**

*Finance Letter Request.* This Finance Letter proposes to appropriate \$1.5 million from the Armory Fund to allow the Military Department to complete necessary repair projects at various armories throughout the state. The request includes budget bill language to make the appropriation available for encumbrance during fiscal years 2005-06 and 2006-07.

This funding would help correct building deficiencies and code violations at 99 armory sites. The Department notes that over 80 percent of the armories were constructed in the 1940's and 50's and have seriously deteriorated due to lack of maintenance and repair. The Department indicates that its armory maintenance budget is under \$100,000 and that armories have become hazards with leaking roofs, failing mechanical systems and obsolete electrical systems. The Department indicates that the backlog of maintenance and repairs is over \$43 million.

*Staff Recommendation.* Staff recommends approval of the Finance Letter.

Action.

***Approved \$1.5 million from the Armory Fund, approved remaining funds from the Armory Fund \$700,000, and provided \$3 million General Fund for maintenance and repairs. Vote: 2-1 (McClintock, no).***

**4. Finance Letter. Military Department Headquarters Complex**

*Finance Letter Request.* This Finance Letter proposes \$7.2 million General Fund for acquisition of approximately 30 acres for a headquarters complex that would consolidate several divisions throughout the state. The total cost of the new Headquarters complex is currently estimated at \$92.5 million. Of that amount, the federal share would be \$62.7 and the state share would be \$29.8. The department indicates that it intends to pursue lease revenue bond financing for the state's share of design and construction costs.

*Staff Recommendation.* Staff recommends rejection of the Finance Letter. Given all the infrastructure deficiencies in the armories, capital outlay expenditures a better priority may be repairing the armory facilities.

Action.

***Rejected Finance Letter. Vote 3-0***